IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO.21322 of 2004

Between:

M/s. Uniicode Engineering Private Ltd., rep., by its Managing Director, M.S.Chandra bose, Uni Code Engineering Pvt.Ltd.,
C-6, A.P.I.E.Auto Nagar, Visakhapatnam.

..... PETITIONER

AND

1 The Commissioner, Employees Provident Fund, Vuda Layout,

N.A.D.Post, Visakhapatnam.
2 The Asst.Provident Fund Commissioner, Employees Provident Fund

Office, Vuda Layout, Marripalem, Visakhapatnam.
3 Recovery Officer, Employees Provident Fund Organization,
Vuda Layout, Marripalem, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue Writ of Mandamus or any other appropriate writ or order or direction declaring the impugned order dated 13-10-2004 passed by the 2nd respondent illegal, arbitrary and in violation of principles of natural justice apart from violative of fundamental rights guaranteed under Articles 14 and 21 of the Constitution of India with a consequential direction to the respondents to drop the proceedings against the petitioner.

Counsel for the Petitioner: MR. CH. SUDHAKAR BABU

Counsel for the Respondents: MR. R.N.REDDY (SC for PF)

The Court at the stage of admission made the following:

ORDER:

The present writ petition is filed questioning the action of the second respondent in initiating proceedings for recovery of damages and interest vide proceedings dated 13.10.2004.

As per the averments made in the affidavit filed in support of the writ petition, the petitioner company is covered under the Provident Fund Scheme. A show cause notice dated 18.12.2002 was issued to the petitioner stating that the petitioner company has not paid the E.P.F contributions for the period 03/1995 to 06/2002 in time and is liable to pay damages of Rs.1,85,499/-. It is stated that the petitioner company has submitted its explanation to the show cause notice stating that the Company was not functioning since 1997 and there are no premium dues by the Company. Thereafter, the impugned order dated 13.10.2004 was passed under Section 14-B of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (for short the Act) levying an amount of Rs.2,07,143/- i.e., Rs.1,85,499/- towards damages and Rs.21,644/- towards interest. Questioning the same on various grounds, the present writ petition is filed.

Heard the learned counsel for the petitioner and learned Standing Counsel for the respondents.

Though several contentions are raised questioning the impugned order, learned Standing Counsel for respondents Mr. R.N. Reddy submits that against the impugned order an appeal lies under Section 7(I) of the Act and that without availing the said remedy the petitioner has approached this Court in a haste manner.

Since alternative efficacious remedy is provided under the Act, the petitioner is at liberty to file an appeal under Section 7(I) of the Act, within a period of four weeks from today. Pending appeal, there shall be stay of all further proceedings pursuant to

order dated 18.12.2002, on condition of petitioner depositing 50% of the amount demanded vide proceedings dated 13.10.2004, within six weeks from today. No coercive steps shall be taken pending appeal.

Subject to above observations, the Writ Petition is disposed of at the stage of admission. No costs.

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(N.V. RAMANA, J)

Date: 22.11.2004

Nsr/Asp

To

1 The Commissioner, Employees Provident Fund, Vuda Layout,

N.A.D.Post, Visakhapatnam.

2 The Asst. Provident Fund Commissioner, Employees Provident Fund

Office, Vuda Layout, Marripalem, Visakhapatnam.

3 Recovery Officer, Employees Provident Fund Organization,
Vuda Layout, Marripalem, Visakhapatnam.

4 Two CD copies.